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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,616	07/18/2005	Teodor Aastrup	066935-076983	7334

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EXAMINER

ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/542,616	Applicant(s) AASTRUP ET AL.	
	Examiner JOHN FITZGERALD	Art Unit 2856	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 22 September 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The Appeal Brief filed 22 September 2009 does not provide the correct status of all pending claims. Contrary to the statement provided in the Appeal Brief (page 3, third paragraph), claims 6, 7 and 11-13 have been withdrawn from consideration as clearly indicated in the Non-Final Office Action (mailing date of 29 March 2007) in a response to Applicant's Response to the Election/Restriction requirement (filed 06 February 2007) in which the Applicant provided no arguments regarding the restriction/election requirement made by the Examiner (mailing date of 08 January 2007), thus effectively withdrawing claims 6, 7 and 11-14 without traverse. Therefore, the status of the claims in the Appeal Brief is incorrect as well as the Applicant's statement regarding claims 6, 7 and 11-14. These claims are not "allowable and pending."

/John Fitzgerald/
Primary Examiner, Art Unit 2856
12/15/09

Continuation Sheet (Patents and Trademark-462)

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PTOL-462 (Rev. 7-05)

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)

Application No 08/112,233

Part of Paper No. 20091215